

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

HOLLY SHUTTLEWORTH

Plaintiff,

VS.

WAL-MART INC.

Defendant.

CASE NO.: 3:22-cv-344

JUDGE:

NOTICE OF REMOVAL
OF CIVIL ACTION

Defendant Wal-Mart, Inc. (hereinafter “Defendant”), by and through counsel, and pursuant to 28 U.S.C. § 1446, respectfully submits this Notice of Removal of Civil Action from the Darke County, Ohio Court of Common Pleas to the United States District Court, Southern District of Ohio, Western Division at Dayton. In support of its Notice, the Defendant states the following:

1. Wal-Mart, Inc. has been named as a Defendant in a civil action filed in the Darke County Court of Common Pleas, Ohio, styled as *Holly Shuttleworth v. Walmart, Inc. dba Walmart*, Case No. 22CV00461. (A true and correct copy of the Complaint is attached hereto as Exhibit A). According to the state court docket, the Complaint was served on Defendant on November 12, 2022. A copy of the Answer filed in state Court is attached hereto as Exhibit B.

2. In Plaintiff's Complaint, Plaintiff alleges that on November 11, 2020, she was injured as a result of a piece of concrete that forcibly struck Plaintiff on the top left head area (Pl. Comp., ¶ 5). Plaintiff alleges that she suffered severe and permanent injuries, including minor closed head injuries, including concussion, headaches, vision problems and great pain and suffering, both physical and emotional, and loss of ability to perform usual functions and the injuries will cause further pain and suffering and loss of ability to perform usual functions in the

future (Pl. Comp., ¶ 14). The Defendant specifically denies any wrongdoing or civil liability to Plaintiff.

3. Upon information and belief and as alleged in Plaintiff's Complaint, Plaintiff is a citizen of the State of Ohio.

4. Defendant, Wal-Mart, Inc., is a corporation organized and existing under the laws of Delaware with its principal place of business in Arkansas.

5. Plaintiffs' Complaint did not allege any specific amount or range in damages – and instead requested only “an amount in excess of \$25,000.00, along with the costs and interests of this action, plus any additional relief Plaintiff is or shall be entitled.”

6. This Notice of Removal is timely because it has been filed within thirty (30) days after the moving Defendant's receipt of Plaintiff's Complaint.

7. The United States District Court for the Southern District of Ohio has diversity jurisdiction over this case pursuant to 28 U.S.C. § 1332. Removal is proper because:

- a. Plaintiff is an Ohio resident;
- b. Defendant Wal-Mart, Inc. is a corporation in the State of Delaware;
- c. The amount in controversy in this case exceeds seventy-five thousand dollars (\$75,000).

8. Pursuant to 28 U.S.C. § 1446(d), written notice of the removal of this case (attached hereto as Exhibit C), together with a copy of this Notice of Removal is being filed with the Clerk of the Darke County, Ohio Court of Common Pleas and shall be served on Plaintiff, through her counsel.

WHEREFORE, the Defendant prays that this action be removed from the Darke County, Ohio Court of Common Pleas to the United States District Court for the Southern District of Ohio, Western Division at Dayton, and request that this Court assume full jurisdiction over the case herein as provided by law.

Respectfully submitted,

REMINER CO., L.P.A.

/s/ Michael J. Caligaris

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was filed this 29th day of November, 2022, using the Court's CM/ECF electronic filing system which will send notice to all counsel of record, upon the following:

Kenneth J. Ignozzi

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Counsel for Plaintiff

/s/ Michael J. Caligaris

Michael J. Caligaris (0099722)